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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/510,149

10/05/2004

Jacques Sirven

0507-1077

6328

466

7590

10/12/2006

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EXAMINER

WILLIAMS, THOMAS J

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/510,149	SIRVEN, JACQUES	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thomas J. Williams	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 6 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-9, 12, 13 and 15 is/are allowed.
- 6) ☒ Claim(s) 1, 10, 11, 14, 16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 2-4 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. Acknowledgement is made in the receipt of the amendment filed August 7, 2006.
2. Claims 7-9 are directed to an allowable product. As such withdrawn claims 11-16 are hereby rejoined.

#### ***Claim Objections***

3. Claims 1 and 18 are objected to because of the following informalities: claim 1 line 16, one of "said" or "the" preceding the phrase "filtering" should be removed; claim 18 line 12, the phrase "a" should be inserted before the phrase "filter". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 10, 11, 14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 10 recites the limitation "the filtering restriction" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 10 recites the limitation "the pipe" in line 3. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 10 recites the limitation "the balancing chamber" in line 4. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 10 recites the limitation "the filtering pipe" in line 6. There is insufficient antecedent basis for this limitation in the claim.

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10. Claim 11 recites the limitations "the filtering restriction", "the pipe", "the balancing chamber", "the balancing pipe" in lines 2-4 and 6. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 14 recites the limitations "the restriction" and "the outlet pipe" in line 5. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 16 recites the limitations "the restriction", "the outlet pipe", "the outlet pipe" in lines 4, 5 and 7. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,586,627 to Nezu et al.

Re-claim 1, Nezu et al. disclose a damper 1, comprising a cylinder 2 adapted to contain a hydraulic fluid, a main piston 3 is actuated by a stem 4 defining the cylinder into a first chamber 2b and a second chamber 2a, the stem is located in the second chamber 2a, a hydraulic fluid reservoir 14, a valve 22 is placed in the hydraulic fluid flow between the first chamber and the second chamber, the valve comprises a moveable valve element cooperates with a seat and means designed to press the valve element on its seat (see spring element part of valve 22), a filtering means 15 is mounted in parallel with the valve, adapted to generate a filtering control pressure acting on the valve element of the valve (via pipe connections 12, 20 and 23), the

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control pressure depends on the pressure differential at an inlet and at an outlet of the valve, the filtering means comprising a balancing chamber divided into two parts by a moveable piston 17 (such as the volume defined by the annular groove formed in the piston and chamber 18), the piston is subjected to the action of a balancing spring means 19.

Re-claim 18, Nezu et al. disclose a damper, comprising: a hydraulic chamber 2; a main piston 3 is actuated by a stem 4 defining, in the cylinder, a first chamber 2b and a second chamber 2a, the second chamber 2a contains the stem 4; a hydraulic fluid reservoir 14 and a valve 22 is placed in hydraulic fluid flow between the first chamber and the second chamber; said valve 22 comprising a movable valve element cooperating with a seat and means to press the valve element onto its seat (see spring element in the valve); a filter 15 is mounted in parallel with the valve, the filter is adapted to generate a filtering control pressure acting on the valve element of the valve, the control pressure depending on the pressure differential at an inlet and at an outlet of the valve, the filter comprising i) a balancing chamber divided into two parts by a movable piston 17, the two parts being respectively linked by pipes to the inlet of the valve (via pipe 12 or pipe 20) and to the outlet of the valve (via pipe 12 and 23), and ii) a filtering restriction 21 mounted in the pipe linking one of the parts of the balancing chamber to the valve, the movable piston being subject to the action of a balancing spring means 19, the inlet of the valve linked to the first chamber of the cylinder, and the outlet of the valve linked to the second chamber of the cylinder and to the reservoir.

Re-claim 19, a filtering pipe (interpreted as pipe 23) links the part of the balancing chamber to the valve. The objected subject matter of claim 2 appears to require the filtering pipe to be linking to the same balancing chamber of the valve that is associated with the filtering

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restriction. Furthermore, claim 2 further recites applying the filtering control pressure prevailing in the balancing chamber in question to the moveable valve element of the valve.

***Allowable Subject Matter***

15. Claims 7-9, 12, 13 and 15 are allowed.

16. Claims 2-4 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

17. Claims 10, 11, 14 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Response to Arguments***

18. Applicant's arguments with respect to claims 1, 18 and 19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action..

20. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is 571-272-7128.

The examiner can normally be reached on Tuesday from 1:00 PM to 7:00 PM and Wednesday-Friday from 6:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan, can be reached at 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

TJW

October 5, 2006

**THOMAS J. WILLIAMS**  
**PRIMARY EXAMINER**

*Thomas Williams*

*AU 3683*

*10-5-06*